

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

James Chappell,

Petitioner

v.

Renee Baker, et al.,

Respondents

16-cv-00645-JAD-VCF

Scheduling Order

Nevada state prisoner James Chappell brings this 28 USC § 2254 petition to challenge his state court conviction and death sentence. I granted Chappell's application to proceed *in forma pauperis*, granted Chappell's motion for appointment of counsel and appointed the Federal Public Defender for the District of Nevada (FPD) to represent him, and ordered Chappell's petition served on respondents.¹ The FPD has filed a notice of acceptance of representation of Chappell and notice of appearance on his behalf,² and the Nevada Attorney General has filed a notice of appearance for respondents.³ Accordingly, under FRCP 16(b), the rules governing § 2254 cases in the United States District Courts, and Local Rule 16-1, I now issue the scheduling order:

1. Amended Petition. If petitioner wishes to file an amended petition, he must file and serve the amended petition by June 13, 2016. The amended petition must state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition must state how, when, and where that occurred. If petitioner determines that an amended petition need not be filed, then he must file and serve a statement to that effect by June 13, 2016.

¹ ECF 7.

² ECF 8.

³ ECF 9.

1 **2. Response to Petition.** Respondents will have 60 days following service of the
2 amended petition to file and serve an answer or other response to the amended petition. If petitioner
3 does not file an amended petition, respondents must file and serve an answer or other response to the
4 original petition by August 13, 2016.

5 **3. Reply and Response to Reply.** Petitioner will have 45 days following service of an
6 answer to file and serve a reply. Respondents will then have 30 days following service of a reply to
7 file and serve a response to the reply.

8 **4. Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner
9 will have 30 days following service of the motion to file and serve an opposition to the motion.
10 Respondents will then have 30 days following service of the opposition to file and serve a reply.

11 **5. Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner
12 must file and serve a motion for leave to do so concurrently with, but separate from, the response to
13 respondents' motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct
14 discovery filed by petitioner before that time may be considered premature, and may be denied
15 without prejudice on that basis. Respondents must file and serve a response to a motion for leave to
16 conduct discovery concurrently with, but separate from, their reply in support of their motion to
17 dismiss or their response to petitioner's reply. Petitioner will then have 20 days to file and serve a
18 reply in support of the motion for leave to conduct discovery. If the court grants petitioner leave to
19 conduct discovery, the court will set time limits for the completion of the authorized discovery.

20 **6. Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,
21 petitioner must file and serve a motion for an evidentiary hearing concurrently with, but separate
22 from, the response to respondents' motion to dismiss or the reply to respondents' answer. Any
23 motion for an evidentiary hearing filed by petitioner before that time may be considered premature,
24 and may be denied without prejudice on that basis. The motion for an evidentiary hearing must
25 specifically address why an evidentiary hearing is required and must meet the requirements of
26 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was held in state court,
27 and, if so, state where the transcript is located in the record. If petitioner files a motion for an
28 evidentiary hearing, respondents must file and serve a response to that motion concurrently with, but

1 separate from, their reply in support of their motion to dismiss or their response to petitioner's reply.
2 Petitioner will then have 20 days to file and serve a reply in support of the motion for an evidentiary
3 hearing.

4 **7. Status Reports and Status Conferences.** The court may from time to time, as the
5 need arises, schedule status conferences, and/or require the filing and service of status reports, in
6 order to manage the progress of this action.

7 IT IS SO ORDERED.

8 April 13, 2016

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12 Jennifer A. Dorsey
13 United States District Judge
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